

nature, tell me the details about that. You can't do it. It is reversible error in a court of law to do that. So all this concern about asking people about prior convictions with respect to this bill doesn't matter. It isn't accurate. Now what we are talking about is really unconvicted offenses, prior bad acts, offenses that a person may have committed which come to light or which may be relevant to some of these facts but really maybe have not been charged offenses. And those should be very carefully scrutinized. I agree with Senator Hall. I think this bill is not gutted. I don't even think it is mortally wounded. I think what this bill after the adoption of the amendment is provide a method for ensuring that that evidence is first heard by an impartial judge or impartial bureaucrat, as Senator Hall would refer to the judges, and that individual is going to say, you know, I don't think there is a standard in the law. There is clearly standards for remoteness in time, whether the evidence is probative, whether it is too prejudicial. You know, the judge can say, hey, wait a minute, prosecutor, you are throwing stuff in here that ought not be thrown in this case, now knock it off, and, no, I am not going to permit that. And if he makes that ruling outside the presence of the jury, the defendant has his protection. The defendant has her protection. They have that, and they don't have that now. You know, there is really no way, clear way to ensure that that happens outside the presence of the jury. I support that concept. I think that's a good concept. I think it's important to make sure that those determinations are made outside the presence of the jury, but I do not think that we should change the standard for that evidence. This will be the only kind of criminal evidence that has a clear and convincing standard. You know we are going to have a clear and convincing standard on other bad acts evidence, but we are not going to have a clear and convincing standard on any other evidence that gets to the jury. It is going to be relevant on any other evidence, all other evidence. And then cumulative, the jury has to decide whether beyond a reasonable doubt the state has met its burden. I don't think that's a good policy. I don't think that the bargain made by the County Attorneys Association was a good bargain. I don't think this is a good bill without the amendment. I'd urge adoption of the amendment.

SPEAKER BAACK: Thank you, Senator Hohenstein. You've heard the closing on the first portion of the Hohenstein amendment. We will now vote on that first portion. All those in favor vote aye, opposed vote no. We are voting on the first portion of the